

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SEVEN Z ENTERPRISES, INC.,	:	CIVIL ACTION NO. 2:17-CV-740
<i>et al.,</i>	:	
	:	(Chief Judge Conner)
Plaintiffs	:	
	:	
v.	:	
	:	
GIANT EAGLE, INC.,	:	
	:	
Defendant	:	
	:	

ORDER

AND NOW, this 22nd day of November, 2019, upon consideration of the motion (Doc. 166) to stay counterclaims or alternatively for leave to supplement the first supplemental complaint filed by plaintiff and counterclaim-defendant Mon Valley Foods, Inc. (“MVF”), wherein MVF contends that ongoing state-court litigation it recently filed against Giant Eagle, Inc. (“Giant Eagle”)—defendant and counterclaim-plaintiff in this action—requires this court to stay Giant Eagle’s pending counterclaims against MVF, (see Doc. 128 at 39-40, 54-55; Doc. 147), and in which MVF presses its desire to raise contract interpretation arguments different than those asserted at the motion-to-dismiss stage—a matter we have already discussed in our February 28, 2019 memorandum, (see Doc. 154 at 7-9), and also invokes the abstention doctrine outlined in Colorado River Water Conservation District v. United States, 424 U.S. 800 (1976), and the court finding that Colorado River abstention, which is an “extraordinary and narrow exception” to the district court’s duty to adjudicate controversies before it, does not apply because the factors provided by the Third Circuit Court of Appeals, on balance, militate against abstention in this case, see Nationwide Mut. Fire Ins. Co. v. George V. Hamilton,

Inc., 571 F.3d 299, 307-08 (3d Cir. 2009) (providing six factors to consider), and the court further finding that MVF's alternative request to supplement its first supplemental complaint is unnecessary because MVF is permitted to assert, and has asserted, its desired contract-interpretation defenses to Giant Eagle's counterclaims, (see e.g., Doc. 161 ¶¶ 14, 21, 23, 70, 132), it is hereby ORDERED that MVF's motion (Doc. 166) to stay counterclaims or alternatively for leave to amend the first supplemental complaint is DENIED.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania